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A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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September 2, 1998

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DOCKET FILE COPY ORIGINAL

**VIA MESSENGER**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D.C. 20554

**RECEIVED**

SEP - 2 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: Petition of OGC Telecomm, Ltd. d/b/a OGI Telecomm, L.P. for Waiver  
of LNP Phase III Implementation Deadline and Sixty Day Advance  
Filing Requirement of 47 C.F.R. § 52.23(e) of the Commission's Rules**

Dear Ms. Salas:

On behalf of OGC Telecomm, Ltd. d/b/a OGI Telecomm, L.P. ("OGC Telecomm"), we submit herewith for filing an original and four copies of OGC Telecomm's Petition for Waiver of the LNP Phase III Implementation Deadline and Sixty Day Advance Filing Requirement of 47 C.F.R. § 52.23(e) of the Commission's Rules.

We also enclose an extra copy of this transmittal letter, which is to be date stamped and returned in the envelope provided. Should any questions arise regarding this submission, please contact OGC Telecomm's undersigned legal counsel.

O+Y

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
September 2, 1998  
Page 2

Respectfully submitted,

A handwritten signature in cursive script, reading "Michelle W. Cohen".

Michelle W. Cohen  
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosure

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

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Telephone Number Portability )

CC Docket No. 95-116

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To: Interim Chief, Common Carrier Bureau

**PETITION OF OGC TELECOMM, LTD. D/B/A OGI TELECOMM, L.P. FOR WAIVER  
OF LNP PHASE III IMPLEMENTATION DEADLINE AND SIXTY DAY ADVANCE  
FILING REQUIREMENT OF 47 C.F.R. § 52.23(e)**

Pursuant to Section 52.23(e) of the Commission's Rules, 47 C.F.R. § 52.23(e), promulgated in the above captioned proceeding, OGC TELECOMM, LTD. D/B/A OGI TELECOMM, L.P. ("OGC Telecomm" or the "Company") hereby respectfully requests a waiver of the Phase III implementation deadline set by the Federal Communications Commission (the "FCC" or the "Commission") for long-term Local Number Portability ("LNP") in the Portland, Oregon Metropolitan Statistical Area ("MSA")<sup>1/</sup> and a waiver of the sixty (60) day advance notice requirement for extension of the Phase III implementation deadline.

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<sup>1/</sup> Pursuant to FCC action, the current implementation deadline for Phase III implementation is September 21, 1998. See In the Matter of Telephone Number Portability, CC Docket No. 95-116, DA 980917 (released May 15, 1998).

## I. INTRODUCTION

The First Report and Order delegated to the Chief of the Common Carrier Bureau "[t]he authority to waive or stay any of the dates in the implementation schedule, as the Chief determines is necessary to ensure the efficient development of number portability."<sup>2/</sup> FCC Rules require a local exchange carrier ("LEC") seeking such waiver relief to demonstrate through substantial, credible evidence the basis for its contention that it is unable to comply with the FCC's LNP deployment schedule.<sup>3/</sup>

The same rules also require that a carrier seeking to extend the time by which implementation will be completed must file a petition "at least 60 days in advance of the deadline." 47 C.F.R. § 52.23(e). As of this date, there are less than sixty (60) days until September 21, 1998, the deadline for implementation of LNP in Phase III MSAs. The Company is requesting a limited waiver for Portland, Oregon, which is part of the Phase III MSAs. OGC Telecomm, for the reasons set forth below, requests a waiver of this 60 day notice requirement for an extension of the September 21, 1998 implementation deadline for its LNP operations solely for the Portland, Oregon MSA.

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<sup>2/</sup> First Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Telephone Number Portability, CC Docket No. 95-116 (released July 2, 1996) ("First Report and Order").

<sup>3/</sup> 47 C.F.R. § 53.23(e).

## **II. WAIVER OF THE PHASE III IMPLEMENTATION DEADLINE AND SIXTY DAY ADVANCE NOTICE REQUIREMENT**

OGC Telecomm has installed all necessary systems that will enable it to provide LNP in the Portland, Oregon MSA. The Company will not, however, be able to meet the Commission's deployment schedule for this region, due, in part, to circumstances beyond its control.

Accordingly, OGC Telecomm respectfully requests that the Commission waive its LNP deployment requirements set forth in 47 C.F.R. § 52.23 for Portland, Oregon, as well as the 60 day advance notice requirement for waiver of the Phase III implementation deadline.

Section 52.23(e) of the Commission Rules states the five (5) criteria which must be presented to the Commission to successfully request a waiver of the implementation deadline for LNP. These criteria are: (1) the facts that demonstrate why the carrier is unable to meet the Commission's deployment schedule; (2) a detailed explanation of the activities that carrier has undertaken to meet the implementation schedule prior to requesting an extension of time; (3) an identification of the particular switches for which the extension is requested; (4) the time within which the carrier will complete deployment in the affected switches; and (5) a proposed schedule with milestones for meeting the deployment date. As demonstrated herein, OGC Telecomm successfully meets the requisite standards for a grant of the instant waiver requests.

**A. Inability to Meet the Commission's Deployment Schedule.**

Delays in OGC Telecomm's Phase III implementation deadline are primarily the result of delays in upgrading the company's 5ESS central office switch from Lucent Technologies ("Lucent"). Lucent and companies similarly situated are inundated with requests by companies such as OGC Telecomm to upgrade their networks to be able to comply with the Commission's LNP deployment deadlines.<sup>4/</sup>

Specifically, special software had to be installed onto OGC Telecomm's system to properly support the upgrade planned for LNP. However, due to the demand for product installation discussed above, it has been extremely difficult for Lucent to be able to service OGC Telecomm's requests for installation of the necessary software any earlier than one (1) month ago.

**B. OGC's Actions to Meet the Phase III Implementation Deadline.**

As already discussed, the Company has installed all necessary systems that will allow it to provide LNP in the Portland, Oregon MSA. Since the installation of the necessary software by Lucent one month ago, OGC Telecomm has successfully completed the upgrade that allows the

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4/ See, e.g., Petition of Nextlink California, L.L.C., Nextlink Utah, L.L.C., Nextlink Georgia, Inc., Nextlink Tennessee, L.L.C. and Telecommunications of Nevada, L.L.C. for Waiver of LNP Phase I, III and IV Implementation Deadlines, CC Docket No. 95-116 (granted July 17, 1998).

company to support LNP. Further, OGC Telecomm's system, with the additional software from Lucent, is in the process of being tested and stabilized, and the actual LNP application, also from Lucent, has been ordered.

The fact that the instant waiver requests are belatedly submitted is also in part a result of the expense of compliance to the Company.<sup>5/</sup> The deployment of LNP is currently slated to account for ten percent (10%) of OGC Telecomm's budget. Although OGC Telecomm recognizes its obligations to expeditiously implement LNP, the Company nonetheless had to obtain approval from its Board of Directors to do so, an action which was only recently finalized.

As already demonstrated above, however, appropriate steps were taken by OGC Telecomm in anticipation of the Board of Directors' favorable action on this matter. In addition to upgrading the Lucent 5ESS central office switch and installation of the necessary software necessary to successfully integrate LNP onto OGC's Telecomm's network, the Company is in the process of upgrading its SS7 service to provide LNP, and is in final contract negotiations with its SS7 provider. The Company has also entered into a contract with the Western Regional NPAC.

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<sup>5/</sup> In addition, although not dispositive of the Company's ability to comply with its FCC obligations generally, OGC Telecomm only recently retained counsel which alerted the Company of the FCC's requirement to submit a request for an extension of an LNP implementation deadline at least sixty (60) days in advance.

**C. Switch Involved in the Instant Waiver Requests.**

OGC Telecomm has one Lucent 5ESS switch at the Beaverton, Oregon headquarters site. This is the only switch in the Portland, Oregon MSA.

**D. Completion of Deployment in Affected Switches.**

OGC Telecomm is making every effort to have LNP fully functional no later than November 21, 1998. Therefore, this request only seeks an additional sixty (60) days, until November 21, 1998, from the current Phase III implementation deadline, and is requested only for the Portland, Oregon MSA. In fact, the Company is hopeful that the necessary testing will be completed by October 21, 1998, only thirty days from the implementation deadline, although 60 days is requested herein in an abundance of caution.

**E. OGC Telecomm's Proposed Schedule.**

As previously discussed, the instant waiver requests pertain solely to the Portland, Oregon MSA for, at most, a sixty (60) day period of time. Further, the Commission has approved similar requests involving many more regions than the sole MSA involved herein, and has waived the 60



day advance requirement in such circumstances.<sup>6/</sup> Testing of the Company's LNP service with both US West and GTE is currently planned for October, 1998. As a new entrant into the CLEC business, with its CLEC operations commencing only last year, the time slots allotted by US West and GTE for the necessary testing for LNP implementations were filled well in advance.

Therefore, the first time the Company will be able to test its own systems with these entities is October, 1998. OGC Telecomm will, however, continue to provide interim number portability to any certified provider until LNP is fully operational. Further, the Company has not received any requests for portability, thereby alleviating any potential harm to the Company's customers or the public from a grant of these requests.

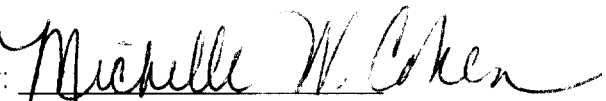
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<sup>6/</sup> See, e.g., Petition of Nextlink California, L.L.C., Nextlink Utah, L.L.C., Nextlink Georgia, Inc., Nextlink Tennessee, L.L.C. and Telecommunications of Nevada, L.L.C. for Waiver of LNP Phase I, III and IV Implementation Deadlines, CC Docket No. 95-116 (granted July 17, 1998).

**WHEREFORE**, for the reasons stated above, OGC Telecomm respectfully requests that the Commission extend the implementation deadline for LNP in the Portland, Oregon MSA and waive the 60 day advance notice requirement for extension of the Phase III implementation deadline.

Respectfully Submitted,

**OGC TELECOMM, LTD. D/B/A/ OGI TELECOMM, L.P.**

By:   
Michelle W. Cohen  
Heidi Atassi Gaffney

PAUL, HASTINGS, JANOFSKY & WALKER LLP  
1299 Pennsylvania Avenue, N.W.  
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(202) 508-9500

*Its Attorneys*

Dated: September 2, 1998

## CERTIFICATE OF SERVICE

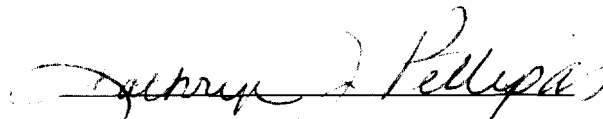
I, Kathryn J. Pettipas, a secretary with the law firm of PAUL, HASTINGS,  
JANOFSKY & WALKER LLP, hereby certify that a copy of the foregoing Petition of  
OGC Telecomm, Ltd. d/b/a OGI Telecomm, L.P. For Waiver of LNP Phase III  
Implementation Deadline and Sixty Day Advance Filing Requirement of 47 C.F.R.  
§ 52.23(e) was hand-delivered on this 2nd day of September, 1998, to the following:

Ms. Anna Gomez  
Interim Chief  
Federal Communications Commission  
Common Carrier Bureau  
2000 M Street, N.W.  
Room 235  
Washington, D.C. 20054

Ms. Jeannie Grimes  
Federal Communications Commission  
Common Carrier Bureau  
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Ms. Gayle Radley Teicher  
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Kathryn J. Pettipas